



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOO - 174792

PRELIMINARY RECITALS

Pursuant to a petition filed on June 1, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services regarding FoodShare benefits (FS), a hearing was held on August 10, 2016, by telephone.

The issue for determination is whether Petitioner's FoodShare allotment has been correctly calculated.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]

Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. He is a FoodShare household of 1.
2. Petitioner filed this appeal to question the reduction of his FoodShare allotment. The allotment was \$16.00 but was reduced to \$6.00 effective June 1, 2016.
3. The agency used the following income in determining Petitioner's FoodShare allotment - \$1481.15. This consists of unearned income of \$1473.90 and earned income of \$7.25.

4. The agency used the following expenses in determining Petitioner's FoodShare allotment: a standard deduction of \$155.00 and a shelter deduction of \$195.27 based a rent expense of \$363.00 and a standard utility allowance of \$458.00 (Petitioner has a utility obligation), an earned income deduction of \$1.45 and an excess medical deduction of \$73.24.
5. Petitioner filed an appeal on May 29, 2015 involving a reduction in his FoodShare allotment from \$194.00 to \$16.00. Benefits were continued from July 1, 2015 thorough October 31, 2015. The appeal was dismissed as abandoned and Petitioner did not file a rehearing request or appeal to Circuit Court. The continued benefits in the amount of \$712.00 (\$178.00 x 4 month) must be recovered and this resulted in a \$10.00 reduction in the amount of Petitioner's FoodShare allotment to \$6.00 from \$16.00.

DISCUSSION

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has an elderly blind or disabled member. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1.* The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1.*

The gross income limit for a household of one is \$1946. *FSH, §8.1.1.1.* Petitioner's gross income is less than this.

If a household passes the gross income test, the following deductions are applied (*FSH, at § 4.6*):

- (1) a standard deduction - which currently is \$155 per month for a household of 1-3 persons, *7 CFR § 273.9(d)(1)*;
- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and
- (5) shelter and utility expenses deduction – the utility expense requires that a household have an actual utility obligation and is a standard deduction based on that obligation (\$446.00 where there is a heat obligation); the deduction is equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5).* There is a cap of \$478.00 on the shelter cost deduction unless a household has an elderly [60 or older], blind or disabled member. *FSH, §§ 4.6.7.3 and 8.1.3.*

Finally, relevant here, is a provision indicates that continued benefits while a hearing is pending are recovered as an unintentional client error if the recipient does not prevail at a hearing. *FSH, §7.3.1.9.*

Having reviewed the agency calculation – I can find no errors. As a final note, a reported change in income or expenses can affect the FoodShare allotment in the month following the report of the change so if any of Petitioner's financial circumstances change he should report the change as soon as possible. *FSH, §6.1.3.3.*

CONCLUSIONS OF LAW

That the available evidence indicates that the agency correctly determined Petitioner's FoodShare allotment.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 30th day of August, 2016

\s _____
David D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on August 30, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability